

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CRYOVAC, INC.,

Plaintiff,

v.

PECHINEY PLASTIC PACKAGING INC.,

Defendant.

C.A. No.: 04-1278 (KAJ)

**CRYOVAC'S FIFTH SET OF REQUESTS (NO. 90-99) TO PECHINEY
FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff/Counter-Defendant, Cryovac, Inc. ("Cryovac") requests that Defendant/Counter-Plaintiff, Pechiney Plastic Packaging, Inc. ("Pechiney") produce for inspection and copying all documents and things requested herein within thirty (30) days of service in accordance with the definitions and instructions set forth below. Production of these documents and things shall be at the office of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413, or at another time and place as may be mutually agreed upon by counsel for the parties.

DEFINITIONS AND INSTRUCTIONS

Cryovac hereby incorporates by reference, as if set forth fully herein, the Definitions of Terms and Instructions set forth in Cryovac's First Set of Requests (Nos. 1-54) to Pechiney for the Production of Documents and Things, served on December 16, 2004.

REQUEST NO. 90:

All documents and things, including but not limited to notes, drafts and communications, reviewed or relied upon by Mr. Larry W. Evans in support of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 91:

All documents and things, including but not limited to notes, drafts and communications, referring or relating to the "telephone conversation with Mr. Kitchel (August 11, 2005)," referenced in paragraphs 4 through 8 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 92:

All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to "why the accused ClearShield™ product was chosen as the commercial product [by PPPI] in late 2003," referenced in paragraph 5 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 93:

All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to "the alternative, non-EVOH copolymer film product" referenced in paragraph 6 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005, including its (1) composition, (2) optical properties, (3) physical properties, (4) chemical properties, (5) oxygen transmission rate(s), (6) conception, (7) development, and (8) production.

REQUEST NO. 94:

All documents and things, including but not limited to notes, test results, analyses,

reports, drafts and communications, referring or relating to comparisons of “the alternative, non-EVOH copolymer film product” referenced in paragraph 6 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005, to other films or packaging materials.

REQUEST NO. 95:

All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to the use and/or testing of the “the alternative, non-EVOH copolymer film product” referenced in paragraph 6 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005, for meat packaging applications, including those referring or relating to (1) shelf life, (2) biological properties, (3) leaker rates, (4) sealing, (5) stiffness, and (6) fit-for-use criteria.

REQUEST NO. 96:

All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to regulatory approval by the Food and Drug Administration of the “the alternative, non-EVOH copolymer film product” referenced in paragraph 6 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 97:

All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to the “introduc[tion] to National Beef” of “the alternative production (without EVOH copolymer)” referenced in paragraph 8 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 98:

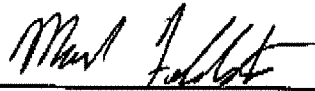
All documents and things, including but not limited to notes, test results, analyses, reports, drafts and communications, referring or relating to the “PPPI expect[ation] to change

over to the alternative product within 30 to 60 days," referenced in paragraph 8 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

REQUEST NO. 99:

Fifty (50) bags representative of "the alternative product (without EVOH copolymer) [that] has been introduced to National Beef," referenced in paragraph 8 of the Second Supplemental Report of Larry W. Evans, dated August 15, 2005.

Dated: August 16, 2005



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Attorneys for Plaintiff Cryovac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2005, a true and correct copy of CRYOVAC'S FIFTH SET OF REQUESTS (NO. 90-99) TO PECHINEY FOR PRODUCTION OF DOCUMENTS AND THINGS was served on counsel of record as set forth below:

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